UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NOTICE OF DOCUMENT DISCREPANCIES

FILED
2008 JAN 22 AM 11:07
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

TO: ☐ U. S. DISTRICT JUDGE / ☑ U. S. MAGISTRATE JUDGE Brooks
FROM: R. Mullin, Deputy Clerk RECEIVED DATE: 1/9/2008
CASE NO.: 07cv2183 DMS (RBB) DOCUMENT FILED BY: Petitioner
CASE TITLE: Cunningham v. Marshall
DOCUMENT ENTITLED: Supplemental Documents and Exhibits

Upon the submission of the attached document(s), the following discrepancies are noted:

✓	Local Rule	Discrepancy
☐	5.1	Missing time and date on motion and/or supporting documentation
☐	5.3	Document illegible or submitted on thermal facsimile paper
☐	**5.4**	**Document not filed electronically. Notice of Noncompliance already issued.**
☐	7.1 or 47.1	Date noticed for hearing not in compliance with rules/Document(s) are not timely
☐	7.1 or 47.1	Lacking memorandum of points and authorities in support as a separate document
☐	7.1 or 47.1	Briefs or memoranda exceed length restrictions
☐	7.1	Missing table of contents
☒	15.1	Amended pleading not complete in itself Claims from original petition are not contained in this pleading.
☐	30.1	Depositions not accepted absent a court order
X		**Supplemental documents require court order**
☐		Default Judgment in sum certain includes calculated interest
☒	See Fed. R. Civil. Proc 15(a)	OTHER: Petitioner may filed an amended pleading once without leave of court anytime before Respondent has filed a responsive pleading. Respondent's Answer is currently due on 3/3/08. An amended petition must contain all of Petitioner's claims.

Date forwarded: 1/17/2008

ORDER OF THE JUDGE / MAGISTRATE JUDGE

IT IS HEREBY ORDERED:

☐ The document is to be filed nunc pro tunc to date received.

☒ The document is NOT to be filed, but instead REJECTED. and it is ORDERED that the Clerk serve a copy of this order on all parties. → Please use the form provided.

Rejected document to be returned to pro se or inmate? ☒ Yes. Court Copy retained by chambers ☐

Counsel is advised that any further failure to comply with the Local Rules may lead to penalties pursuant to Local Rule 83.1

CHAMBERS OF: RBB

Dated: 1/22/08 By: [signature]

cc: All Parties

1of3

JAMES Cunningham
C.M.C EAST Bldg. 6267X
P.O. BOX 8103
SAN LUIS OBISPO.CA 93403

ORIGINAL

REJECTED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT Of CALIFORNIA

JAMES Cunningham: Petitioner

John Marshall (warden(cmc)
Respondent.

CASE NO. S-151640

Notice of Appeal
MOTION for REQUEST of Legal Grounds of racial Profiling with: Prejudice. Misconduct of Jury Selection.

Petitioner would Like to ensue relief on a particular injustice and plead with the courts to be enforceable with Petitioners Federal & state Constitutional Civil rights.

The first prejudice error was while Jury Selection were being perform. Petitioners counsel grew raised and Motion the Courts for a mistrial. Trial Judge declined to grant such a Motion that was consider by counsel Meritouses.

1 of 2

James Cunningham
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REJECTED

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

James Cunningham
Petitioner

John Marshall (warden CMC)
Respondent

CASE NO. S-151640

NOTICE of APPEAL;
MOTION for request search with-out A warrant. Violation of Privacy search & seizure, invasion of privacy. No inventory list. Entry obtained illegaly. Illegally obtained evidence. Consitutional Rule Base on first Amendment, do process to contest eviction. Negligence. discriminatory. Probable cause.

Under the protection of the privacy the individual, Petitioner 4th amendment was violated and illustrated bye Prosecutioner & witness (Debra Teich). See (People v. Reeve (1964) 61 C.2d 268.273. 38 CR. 391 P.2d 393; It is well settled by both Federal and State decision that an entry obtained by trickery, search and seize; stealth or subterfuge renders search & seizure invalid Privacy. And failure to investigate violates strickland Performance Prong. See in (Williams v. Taylor (2000) 529 U.S. 9th 391, 120 S.Ct 1495).

1 of 0

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6267X V-72523

REJECTED

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ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT Of CALIFORNIA

James Cunningham
Petitioner

John Marshall Warden of CMC
Respondent

CASE NO. S-151640

Notice of APPEAL
Motion for REQUEST of Lead Grounds of INEffective Counsel AND Miscarriage of Justice

Petitioner would like to reflect on the Courts of Appeal responds. Quotes: Although the rights of confrontation includes the right to cross-examine adverse witness on matters reflecting on their credibility and Trial Judges retains wide latitude insofar as the confrontation clause. also Quote: The People do not argue that Cunningham's failure to raise his constitutional claims at trial constitutes a forfeiture of those claims on appeal. Therefore, we do not consider the issues. However, we note that in People v. Partida (2005) 37 Cal. 4th 428, 435, the California Supreme Court held that a defendant who failed to assert the constitutional basis for his evidence code section 352 evidentiary objection at trail could never the less, argue

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Ground 1 (Argument 1)

Petitioner was deprived of his Fifth, Sixth and Fourteenth Amendment right when his appellate counsel failed to raise an arguable issue on direct appeal that the trial court erred by instructing the jury on Caljic 2.02 and erred in failing to instruct the jury on Caljic 2.01 jury instruction.

Supporting facts:

Petitioner contends that he was denied his Constitutional right to effective assistance of counsel and deprived of due process of the law when his appellate counsel should have raised an arguable issue on direct appeal that the trial court erred by instructing the jury on Caljic 2.02 Sufficiency of Circumstantial Evidence to prove specific intent or mental state and erred in failing to instruct the jury on Caljic 2.01 Sufficiency of Circumstantial Evidence.

Petitioner notes that he was charged in Count 1 Residential Burgulary Pen C§ 459 and 460. Count 2 charged Assault with a firearm Pen C § 245 (a)(2). Count 3 charged Possession of a firearm by a felon Pen C§ 12021 (a)(1) and Count 4 charged Possession of a deadly weapon Pen C§12020. Both Counts 1 and 2 alleged a personal use of a firearm enhancement

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Ground 2

Petitioner was deprived of his Fifth, Sixth and Fourteenth Amendment rights when he was denied the effective assistance of counsel on direct appeal because his appellate counsel was incompetent and ineffective when she failea to raise substantial allegations of error on direct appeal that arguably might have resulted in reversal

Petitioner contends that he was denied his Constitutional right to effective assistance of counsel and deprived of due process of the law when his appellate counsel was ineffective for failing to raise substantial assignments of error, that petitioner has set forth in Ground 1 that arguably might have resulted in reversal of his convictions.

On September 15, 2004, a Four Count information was filed charging Defendant/Petitioner, James A. Cunningham (petitioner) with offenses occuring in San Diego County. Count 1 charged petitioner with first degree burgulary of an inhabited dewelling in violation of Pen C § 459 and 460. Count 2 charged petitioner with Assault with a firearm in violation of Pen C § 245 (a)(2). Count 3 charged

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REJECTED

RIOR COURT - STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

EXHIBIT

ᴌE OF ˀRNIA, tiff JAMES CUNNI Defendant	CASE NUMBER SCE243538

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DEC 2 5 200

SUPCT APL-47CRM(Rev. 12-96)